

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 4, 2011

Lyle W. Cayce
Clerk

No. 11-60275
Summary Calendar

LEROY DONALD NESBIT,

Plaintiff-Appellee

v.

MANIKA KEMP, Individually and in her official capacity,

Defendant-Appellant

Appeal from the United States District Court for
the Northern District of Mississippi
USDC No. 2:09-CV-156

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

The district court denied dismissal of Leroy Nesbit's complaint of discrimination, in violation of 42 U.S.C. § 1981, in response to Manika Kemp's qualified immunity defense. Because the record shows material fact issues, this court must dismiss for want of jurisdiction.

The district court's finding that fact issues are raised is supported by the testimony of the plaintiff. (Record pp. 331, 645). Dr. Kemp was the principal

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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supervising Mr. Nesbit, a teacher. Nesbit testified that he was rudely interrupted in class, required to do more work, urged to resign, interfered with in his ability to teach, etc.—as other white teachers were treated but not the black teachers.

APPEAL DISMISSED.